

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 13014 of 1999

DATED: 03.02.1999

Between:

S.A.B.Jawid petitioner

And

The Rashtriya Ispat Nigam Ltd

Rep by its Chairman cum Managing Director,

Visakapatnam and two others Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 13014 OF 1999

ORAL ORDER:

The present writ petition is filed questioning the action of the respondents in removing the petitioner from service on the ground of unauthorized absence.

The petitioner herein who was working as Entomologist at Visakhapatnam Steel Plant and applied for Earned Leave from 9.8.1996 to 16.8.1996 on the ground that

he wants to go to his native place. Thereafter he has extended his leave from time to time i.e.,

up to 26.8.1996, 11.10.1996 and 27.11.1997 by way of sending telegrams to the respondent organisation. While so, a charge sheet was issued to the petitioner on 18.1.1996 for willful and unauthorized absence from duty from 11.10.1996. However, the petitioner did not attend the enquiry and an ex parte enquiry was conducted and petitioner was dismissed from service by order dt 6.11.1997. Thereafter, the petitioner approached the respondent authorities and preferred an appeal. The Appellate Authority on consideration of the matter, confirmed the order of the primary authority by its order dated 31.01.1998. The review application filed by the petitioner was also dismissed by order dated 20.4.1998, confirming the dismissal from service. Hence, the present petition.

The main contention of the petitioner is that due to his father's sickness he has extended the leave from time to time by sending telegrams and he is totally unaware of the disciplinary proceedings initiated against him and the respondent authorities without properly serving the notices and other proceedings illegally proceeded with

ex-parte enquiry and passed the dismissal order. It is also contended that the Appellate Authority and Review Authority has mechanically confirmed the orders passed by the primary authority. It is also contended that that during the leave period, he has visited the office on several occasions and he was not informed about the initiation of the disciplinary proceedings.

Per contra, a detailed counter affidavit was filed sworn in by Deputy Chief Personnel Manager, of the first respondent organization, denying the allegations made in the writ affidavit and *inter alia* stating that the petitioner was duly communicated of all the relevant notices and orders to both his Visakapatnam and Bangalore addresses and the petitioner has wantonly chosen to avoid service of the same and went on issuing telegrams both from Visakapatnam and Bangalore seeking extension of leave period. It is specifically stated that the petitioner was granted leave up to 10.10.1996 and even after expiry of the said date, the petitioner did not join the duty, thus a telegram dated 12.10.1996 was sent to his Visakapatnam address which was returned unserved with endorsement that petitioner was not available. Thereafter, the petitioner has sent a telegram dated 12.10.1996 from Visakapatnam itself seeking extension of leave up to 27.11.1996 which was rejected by the Controlling

Officer vide letter dt 24.10.1996 advising the petitioner to immediately join the duty, else disciplinary proceedings would be initiated. The said communication dt 24.10.1996 was sent to both Visakapatnam and Bangalore addresses. The communication sent to Bangalore address was returned undelivered with endorsement "shifted one year back". Thereafter the petitioner sent another telegram dt 21.10.1996 from Bangalore seeking extension of leave up to 27.11.1997, which was also rejected vide letter dated 24.2.1997. Thereafter a charge sheet dt 18.11.1996 was issued calling for the explanation from the petitioner. However, the petitioner neither submitted his explanation nor attended the enquiry, hence, after adjourning the matter twice on 28.1.1997 and 15.2.1997, the enquiry officer proceeded further in the matter ex parte and submitted his report dt 7.4.1997 holding that the charge alleged against the petitioner is established. A copy of the enquiry report was also communicated to the petitioner to his addresses at Bangalore and Visakapatnam, however, there was no response. Thereafter, the dismissal order dated 6.11.1997 was passed and communicated to both addresses of the petitioner at Visakapatnam and Bangalore. It is specifically alleged that the petitioner has chosen to send telegrams from Visakapatnam and Bangalore for extension of leave and managed not to receive the communications sent by the respondent during the period of enquiry and subsequent thereto and has remained absented unauthorized for more than a year, and has not chosen to know whether the extension of leave was granted to him or not. It is thus contended that the punishment of dismissal for service is justified.

The learned Standing Counsel for respondent has filed the entire correspondence of the respondent as material papers and also produced the relevant record to establish that the communications were sent to petitioner and after affording reasonable opportunity the ex-parte enquiry was conducted against the petitioner.

Heard learned counsel for petitioner and learned Standing Counsel for respondents.

Admittedly, all-through the disciplinary proceedings for more than one year, the petitioner has chosen to remain absent and has not chosen to enquire whether the extension of leave sought for by him was either granted by the concerned authority or not. The record produced by the respondent goes to show that the disciplinary authority has sent the communications from time to time, to the address of the petitioner both at Visakapatnam and Bangalore. The petitioner has not explained the reasons as to why he has not made necessary efforts to know the

result of the telegrams sent by him seeking extension of leave. The petitioner cannot be absolved of his responsibility by simply sending a telegram seeking extension of leave more particularly when the leave period runs to more than one year.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of Certiorari are limited to- first to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. It is quite clear that the case on hand does not fall under the above parameters, inasmuch as the petitioner has not shown any interest towards his job nor enquired about grant of extension of his leave from time to time for a period of more than one year, that apart, the record does not disclose any procedural irregularity in the ex-parte enquiry conducted against the petitioner. Thus, the attitude of the petitioner in not showing any interest towards his job and responsibilities thereof, does not deserve any consideration and there is no reason warranting interference of this Court.

For the foregoing reasons, the writ petition fails and accordingly the same is dismissed. No costs.

N.V.RAMANA,J

3.2.2006

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